

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

UNITED STATES OF AMERICA . CASE NO. 5:13-CR-56-1BO
V. . ELIZABETH CITY, NC
ROBERT MINISH . NOVEMBER 15, 2013
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TRANSCRIPT OF
CONTINUATION OF SENTENCING HEARING
BEFORE THE HONORABLE TERRENCE W. BOYLE
JUDGE, UNITED STATES DISTRICT COURT

APPEARANCES:

FOR THE UNITED STATES: TOBIN LATHAN, ESQUIRE
ASSISTANT U.S. ATTORNEY
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FOR THE DEFENDANT: JOHN FANNEY, ESQUIRE
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COURT REPORTER: MS. SANDRA A. GRAHAM, CVR

Proceedings recorded by stenomask, transcript produced from
dictation.

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1 **THE COURT:** I don't know if we got to the guideline. I'll
2 give him a chance to allocute again, but the report came
3 out with a 17, Category 1 for 24 to 30 months. Do you want
4 to dispute that?

5 **MR. FANNEY:** No, Your Honor. He has authorized me to
6 withdraw his objection to that. He has no dispute with
7 that.

8 **THE COURT:** Okay. The offense level is a 17, Category 1.
9 Mr. Minish, you have the right to allocute, to speak about
10 your sentence. Do you want to say anything?

11 **MR. MINISH:** Yes, sir.

12 **THE COURT:** All right. Go ahead. Speak loud enough so I
13 can hear you.

14 **MR. MINISH:** Yes, sir. I know you hear I'm sorry from a
15 lot of people, but I am sorry. I apologize for my actions
16 that led me to this Court. I ain't asking for leniency
17 because I spent my life trying to be a good guy and failed
18 this one time. I enlisted in the National Guard straight
19 out of college. I took my oath to defend my country
20 seriously and after 21 years active duty in the National
21 Guard I retired, not with a chest full of medals but still
22 proud of my service.

23 I worked with the federal grant program and helped
24 repair substandard housing for low income families in rural
25 communities in North Carolina. I worked with the North

1 Carolina Department of Corrections as a correctional
2 officer, which was a pretty stressful and difficult job.
3 When I started working in law enforcement support services,
4 I was immersed in a culture that encouraged use of military
5 -- surplus military equipment for our own benefit. We
6 drove cars supplied from the Department of Defense. We
7 wore surplus clothing. We used surplus equipment as we
8 needed it. I went overboard and crossed a line I should
9 not have, but while there I also did a lot of good for law
10 enforcement. L-E-S-S provided surplus equipment to the
11 World Trade Center and to New Orleans the week after
12 Katrina. We provided armored vehicles to law enforcement
13 agencies throughout the southeast and weapons to hundreds
14 of law enforcement agencies in North Carolina and
15 nationwide. To listen to probation's presentence report I
16 spent all the years at L-E-S-S selling military guns and
17 equipment on eBay. My job involved a lot more than just
18 managing the weapons issued to police departments. I
19 designed and built undercover cars to supply to law
20 enforcement agencies. Using a military surplus truck and a
21 small federal grant, I built a mobile command post for the
22 state of North Carolina, Department of Crime Control, for
23 hundreds of thousands of dollars less than what it would
24 have cost to purchase one.

25 At one time I ran two federal grant programs, an

1 undercover equipment loan program, an equipment purchasing
2 program, managed all aircraft, armored vehicles and weapons
3 in the state of North Carolina and still helped my
4 coworkers to acquire and distribute military surplus
5 equipment to police and sheriffs throughout the state.
6 Until you deal with 2500 guns issued to a hundred sheriffs
7 and 600 police chiefs all dead set on doing things their
8 own way, you have no idea how quickly records can become
9 confused. I do take responsibility that things were not
10 done to the standards they should have been. I did lie to
11 a federal agent and I did take federal property for my own
12 use. Due to the complexity of what I did at L-E-S-S and
13 the background in this case it is very difficult to explain
14 succinctly. I agree to start reimbursing the Government
15 for what I took and hope that I can very quickly pay back
16 restitution.

17 This Saturday morning while on vacation in Holden
18 Beach my oldest son's wife gave birth to a son I have not
19 seen yet. I worked a 48 hour on-call shift this weekend
20 and could not leave town. Due to complications at birth he
21 will be in the hospital at Wilmington for the next one or
22 two weeks. And hopefully I will be able to see him soon.
23 I was able to enjoy a Thanksgiving dinner with my youngest
24 son, his wife and my two grandchildren. Before dinner they
25 helped us decorate our Christmas tree. They bring a joy to

1 my life that I do not deserve.

2 Right now my life is simple. I work 52 to 76 hour
3 work weeks transporting sick and elderly to doctor's
4 offices, hospitals, and nursing homes. It's a good job for
5 a good company and I feel like I am doing a good service
6 for the community. I take care of my small farm and the
7 small goat herd we have on it. My wife is not able to care
8 for the goats so if I am not around she will have to sell
9 them all. I work and I do chores around the farm.

10 I have served my country honorably. I have worked in
11 public service for the past 18 years, and I've never done
12 anything this stupid before, and I will never do anything
13 this stupid again.

14 Lastly, I have a rare blood type. I have been
15 donating blood to the Red Cross for 40 years, something I
16 will no longer be able to do if I spend any time in prison.
17 Thank you for your time.

18 **THE COURT:** All right. Thank you. Do you want to say
19 anything about his sentence?

20 **MR. FANNEY:** Your Honor, I would ask the Court to consider
21 a variance with regard to everything that he has told you
22 here today and the seriousness of the offense. And I would
23 ask the Court to consider perhaps a period of home
24 confinement followed by supervised release. He has given
25 me funds today with which he can start paying back the

1 Government for the restitution amount found in the
2 presentence report.

3 **THE COURT:** Okay. What does the Government say?

4 **MR. LATHAN:** Your Honor, we're asking for a guideline
5 sentence. This is a former state employee who sold
6 thousands of dollars worth of government property, was
7 operating an eBay business and sold thousands of dollars
8 worth of government property within that eBay business.
9 And not only that, but most of this property that he sold
10 was never intended to make its way into public hands. But
11 what's even more troubling is the lies that he told
12 throughout the investigation given time and time again an
13 opportunity to come clean. It started when the
14 investigation began. You know, he's missing firearms and
15 he sends investigators from one end of the state to the
16 other looking for them knowing all the while that he had
17 them, that they were not in these other law enforcement
18 agencies. And in those ensuing weeks investigators were
19 checking in with him on a daily basis, talking to him on
20 the phone, and he is literally directing them from one
21 place to the other, all of it a lie. Eventually when he is
22 confronted with evidence that that is not true and he knows
23 where those guns are, the lies continue. And he continues
24 to deny that he has actually sold government property on
25 eBay. Eventually records disprove that. And those are

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1 only records from a two-year period. So we don't know the
2 full extent of what was stolen and what was sold. But it
3 is a serious offense, and we think the guideline in this
4 case adequately captures the events, and a guideline
5 sentence is appropriate.

6 **THE COURT:** Why did you send them on a wild goose chase for
7 all this stuff?

8 **MR. MINISH:** Well, I disagree with that, sir. It was poor
9 record keeping, nothing else. I did not know where these
10 weapons were. Like I said, we had 2500 weapons issued
11 within the state of North Carolina.

12 **THE COURT:** Well, did you know that -- were these the ones
13 that you sold?

14 **MR. MINISH:** No, sir, I've never sold any weapons.

15 **THE COURT:** What did you sell on eBay?

16 **MR. MINISH:** Just weapon sights, cleaning kits -- I'm
17 trying to remember -- some surplus radios.

18 **THE COURT:** What were they looking for that they went on
19 this wild goose chase, guns?

20 **MR. MINISH:** I was told it was a DOD audit on our records.
21 They would spot check to find -- to make sure we had
22 weapons where we said they were. At the time we were in
23 violation of DOD policy, and we were keeping weapons in our
24 warehouse, which we were not supposed to do. And we were
25 not inventorying those weapons, so I didn't know what was

1 there. So I went by our database and told the
2 investigators what our database said where those guns were.
3 And our database was wrong. Eventually I found -- you
4 know, we were trying to trace through transfers between
5 departments, and eventually I figured out that those guns
6 must have been in our warehouse, and that's when I told the
7 investigators that's where they were.

8 **THE COURT:** So you never lied to them?

9 **MR. MINISH:** Oh, yes, sir.

10 **THE COURT:** Well, that's what I'm trying to get at. What
11 did you lie to them about?

12 **MR. MINISH:** They asked me did we have weapons on the
13 premises, and I lied and said, no, we didn't.

14 **THE COURT:** Why did you do that?

15 **MR. MINISH:** Because it was against DOD policy.

16 **THE COURT:** Well, what benefit did you get out of having
17 weapons there and lying about it?

18 **MR. MINISH:** We were -- I don't know if Your Honor has ever
19 dealt with a sheriff. I'm sure you have. They tend to be
20 hard-headed sometimes, and when a sheriff comes in your
21 office and says, here are some guns that you all issued me
22 five years ago; I don't want them anymore, my thoughts at
23 the time were take them, we'll lock them up, we'll find
24 another home for them. And that's what we were doing.

25 **THE COURT:** And that's all there is to it?

1 **MR. MINISH:** Yes, sir.

2 **THE COURT:** Well, how did you lie to them?

3 **MR. MINISH:** Well, when they asked me if we had weapons on
4 site, I told them no.

5 **THE COURT:** That was the lie?

6 **MR. MINISH:** That was the lie, yes, sir.

7 **THE COURT:** How is that a crime?

8 **MR. MINISH:** Well, it's still a crime to lie to the federal
9 government.

10 **THE COURT:** Well, what benefit did you get out of lying to
11 them?

12 **MR. MINISH:** Like I said, we were against -- were violating
13 DOD policy keeping the weapons there, and we had a working
14 relationship with the DOD agency that provided those
15 weapons, and we were trying to ensure that we kept a good
16 relationship with them. The year after this happened, when
17 we finally got DOD to take these weapons back, I shipped
18 most of them to other states and then got them out of our
19 warehouse.

20 **THE COURT:** It doesn't sound like he did anything wrong.
21 How did he get indicted?

22 **MR. LATHAN:** Well, Your Honor, he was indicted because this
23 case involves a lot more than just him lying about whether
24 or not there were weapons on the premises of LESSO. He
25 also stole weapons, and as the investigation progressed and

1 the heat came on him he did all sorts of things. For
2 example, he had stolen six guns that he actually mailed
3 back under the guise that they were being sent by a law
4 enforcement agency. It was the Alamance County Sheriff's
5 office he wrote on the package, and he mailed that package
6 back to North Carolina (unintelligible) under the guise
7 that they were guns being returned when, in fact, they were
8 guns that he stole and that he was mailing back to try to
9 cover for himself?

10 **THE COURT:** Is that true?

11 **MR. MINISH:** Yes, sir.

12 **THE COURT:** Well, why didn't you tell me that?

13 **MR. MINISH:** Well, my intention was not to steal those
14 guns. I had those guns at home to use.

15 **THE COURT:** You had them for what?

16 **MR. MINISH:** To use. I took them home to practice with
17 them. When this investigation -- when I was confronted
18 about stealing property, and I was told not to return to
19 L-E-S-S and not to contact anyone there, I had these six
20 weapons at my home, and I needed to return them. I knew it
21 would look bad. It was a stupid move, but I shipped them
22 back as best and as quickly as I could.

23 **THE COURT:** Why did you say it came from the Alamance
24 County Sheriff's Department?

25 **MR. MINISH:** To be honest, Your Honor, I don't even

1 remember doing that. I may have. Like I said, I was
2 trying to cover for myself because I had been accused of
3 stealing and here I was with six guns that didn't belong to
4 me.

5 **THE COURT:** Well, why didn't you just bring them in to the
6 supply office and say, here, these six guns need to go into
7 the inventory?

8 **MR. MINISH:** I should have, yes, sir. But I was
9 embarrassed. Like I said, I had already been accused of
10 stealing, and I knew it would look bad.

11 **THE COURT:** All right. You can have a seat.

12 I impose a sentence of four years of probation on the
13 condition that he serve nine months of home confinement
14 with a curfew but be eligible to work during that period.
15 And after the nine months that he perform 200 hours of
16 community service without compensation, to be managed by
17 the probation office. Pay restitution in the amount of
18 \$28,456.52 and \$200 in special assessments.

19 **MR. FANNEY:** Thank you, Your Honor.

20 **MR. MINISH:** Thank you very much, sir.
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25

STATE OF NORTH CAROLINA)
) C-E-R-T-I-F-I-C-A-T-I-O-N
COUNTY OF PERQUIMANS)

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Sandra A. Graham, CVR-M
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Court Reporter & Notary Public
Notary Public Number: 19940140086

12/13/2013
December 13, 2013

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